

Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 (repealed)

REGULATION (EU, EURATOM) No 966/2012 OF THE
EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 25 October 2012

on the financial rules applicable to the general budget of the Union and
repealing Council Regulation (EC, Euratom) No 1605/2002 (repealed)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 322 thereof, in conjunction with the Treaty establishing the European Atomic Energy Community, and in particular Article 106a thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the Court of Auditors⁽¹⁾,

Acting in accordance with the ordinary legislative procedure⁽²⁾,

Whereas:

- (1) Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities⁽³⁾ has been substantially amended several times. Since further amendments are to be made, including changes to take account of the entry into force of the Treaty of Lisbon, Regulation (EC, Euratom) No 1605/2002 should be repealed and replaced by this Regulation, in the interests of clarity.
- (2) Regulation (EC, Euratom) No 1605/2002 laid down the budgetary principles and financial rules governing the establishment and implementation of the general budget of the Union (the "budget"), ensuring sound and effective management, control and protection of the Union's financial interests and increasing transparency, that are to be respected in all legal acts and by all institutions. The fundamental principles, the concept and the structure of that Regulation and the basic rules of budgetary and financial management should be maintained. Derogations to those fundamental principles should be reviewed and simplified as far as possible, taking into account their continuing relevance, their added-value for the budget, and the burden they impose on stakeholders. It is necessary to maintain and strengthen the key elements of the financial rules: the role of the financial actors, the integration of controls in operational services, the internal auditors, activity-based budgeting, the modernisation of accounting principles and rules, and the basic principles for grants.

- (3) Due to the specific nature and tasks of the European Central Bank (ECB), in particular its independence as regards the management of its finances, it should be excluded from the scope of this Regulation, except where otherwise provided for in this Regulation.
- (4) In the light of practical experience, rules should be included in this Regulation in order to follow evolving requirements of budget implementation such as co-financing with other donors, to increase the efficiency of external aid, to facilitate the use of specific financial instruments including those concluded with the European Investment Bank (EIB) and to facilitate budget implementation through public-private partnerships ("PPPs").
- (5) Regulation (EC, Euratom) No 1605/2002 was confined to stating broad budgetary principles and financial rules in line with the Treaties while the implementing provisions were laid down in Commission Regulation (EC, Euratom) No 2342/2002 of 23 December 2002 laying down detailed rules for the implementation of Council Regulation (EC, Euratom) No 1605/2002⁽⁴⁾ in order to produce a better hierarchy of rules and make Regulation (EC, Euratom) No 1605/2002 easier to read. Under Article 290 TFEU a legislative act may delegate to the Commission the power to adopt non-legislative acts only to supplement or amend certain non-essential elements of that legislative act. As a consequence, some provisions laid down in Regulation (EC, Euratom) No 2342/2002, should be incorporated into this Regulation.
- (6) Police and judicial cooperation in criminal matters have become an integral part of other Union policies and internal actions. The specific financial provisions applicable to that policy area are thus no longer justified and should therefore not be included in this Regulation.
- (7) In order to ensure transparency, the budget should record guarantees for borrowing-and-lending operations entered into by the Union, including the European Financial Stability Mechanism and Balance of Payment Facility operations.
- (8) The existing rules governing interest generated by pre-financing payments should be simplified as they generate an excessive administrative burden both for recipients and Commission services and create misunderstandings between Commission services and recipients. In the interests of simplification, in particular with regard to beneficiaries, and in accordance with the principle of sound financial management, there should no longer be an obligation to generate interest on pre-financing payments and to recover such interest. However, it should be possible to include such an obligation in a delegation agreement in order to allow the re-use of interest generated by pre-financing payments for the programmes, the deduction of such interest from the payment requests or its recovery.
- (9) Carry-over rules for assigned revenue should take into account the distinction between external and internal assigned revenue. In order to comply with the purpose assigned by the donor, external assigned revenue should be carried over automatically and used until all the operations relating to the programme or action to which it is assigned have been carried out. Where the external assigned revenue is received during the last year of the programme or action, it should also be possible to use it in the first year of the

succeeding programme or action. It should be possible to carry over internal assigned revenue for one year only, except where this Regulation provides otherwise.

- (10) The rules regarding provisional twelfths should be clarified with regard to both the number of additional twelfths that may be requested, and the cases where the European Parliament decides to reduce the amount of the additional expenditure in excess of the provisional twelfths adopted by the Council.
- (11) The derogation from the principle of universality concerning assigned revenue should be modified to take into account the specificities of, on the one hand, internal assigned revenue which arises from appropriations authorised by the European Parliament and the Council, and, on the other hand, external assigned revenue which is collected from and assigned by various donors to a specific programme or action. Furthermore, external donors should be allowed to co-finance external action, in particular humanitarian operations, even in cases where the basic act does not expressly provide for such co-financing.
- (12) The presentation of assigned revenue in the draft budget should be made more transparent by providing that amounts of assigned revenue are to be included in the draft budget for the amounts which are certain at the date of the establishment of the draft budget.
- (13) As regards the principle of specification, since no distinction is now made between compulsory and non-compulsory expenditure, the rules governing transfers of appropriations should be adapted accordingly.
- (14) The rules governing transfers of appropriations should also be adapted to the changes resulting from the entry into force of the Treaty of Lisbon. In addition, recent experience has shown the importance of increasing flexibility for end-of-the-year transfer of payment appropriations, in particular for structural funds. It is necessary to ensure better budget implementation, especially in relation to payment appropriations, assigned revenue and administrative appropriations that are common to several titles. To that end, the typology of transfers should be simplified and the adoption procedure of some transfers should be more flexible. In particular, it has proven to be relevant and efficient for the Commission to have the possibility of deciding on transfers of unused appropriations in cases of international humanitarian disasters and crises. That possibility should therefore be extended to similar events occurring after 1 December of a financial year. In such cases, for reasons of transparency, the Commission should inform the European Parliament and the Council immediately of its decision to transfer unused appropriations.
- (15) Concerning provisions on sound financial management, the authorising officer by delegation should take account of the expected level of risk of error and cost and benefits of controls when preparing legislative proposals and when setting up the respective management and control systems. The authorising officer by delegation should report on the results of controls, and their costs and benefits in the annual activity report. Management declarations on such systems submitted by the bodies designated by the Member States to be responsible for the management and control of Union funds, are integral to the effectiveness of national management and control systems.

- (16) The principle of transparency, enshrined in Article 15 TFEU which requires the institutions to work as openly as possible, implies, in the area of the implementation of the budget, that citizens are able to know where, and for what purpose, funds are spent by the Union. Such information fosters democratic debate, contributes to the participation of citizens in the Union's decision-making process and reinforces institutional control and scrutiny over Union expenditure. Such objectives should be achieved by the publication, preferably using modern communication tools, of relevant information concerning final contractors and beneficiaries of Union funds which takes into account such contractors' and beneficiaries' legitimate interests of confidentiality and security and, as far as natural persons are concerned, their right to privacy and the protection of their personal data. Institutions should therefore adopt a selective approach in the publication of information, in accordance with the principle of proportionality. Decisions to publish should be based on relevant criteria in order to provide meaningful information.
- (17) In accordance with Article 316 TFEU, the European Council and the Council should share the same section in the budget.
- (18) The annual budgetary procedure under the TFEU should be reflected in this Regulation.
- (19) With regard to the establishment of the budget, it is important to clearly define the structure and the presentation of the draft budget drawn up by the Commission. The content of the general introduction preceding the draft budget should be described more precisely. It is also necessary to include a provision on financial programming for future years as well as a provision on the possibility for the Commission to submit working documents to support budget requests.
- (20) With regard to the specific features of the Common Foreign and Security Policy, the forms which basic acts can take under the TFEU and under Title V and VI of the TEU should be updated. In addition, the adoption procedure for preparatory measures in the area of external action should be adapted to the TFEU.
- (21) The rules on methods of implementation of the budget, which govern in particular the conditions of externalisation of implementing powers to third parties, have become too complex over the years and should be simplified. At the same time, the initial objective of externalisation, namely that whatever the method of implementation, expenditure is implemented with a level of control and transparency equivalent to that expected from the Commission services, should be maintained.
- (22) A clear distinction should be made between situations in which the budget is implemented directly, by the Commission or its executive agencies, situations in which the budget is implemented by Member States under shared management and situations in which the budget is implemented indirectly through third parties. This should allow for the establishment of a harmonised regime for shared and indirect management which can be adapted in accordance with sector-specific rules, in particular where the budget is implemented by Member States under shared management. Such a harmonised regime should include in particular the basic principles to be respected by the Commission when it decides to implement the budget under shared management or indirectly and

the basic principles to be respected by parties entrusted with budget implementation tasks. The Commission should be able to apply Union rules and procedures or to accept the application of the rules and procedures of the entrusted party, provided the latter guarantees an equivalent protection of the Union's financial interests. As part of the supervision tasks of the Commission, it is also necessary to provide for a set of control and audit obligations, including the examination and acceptance of accounts, for all methods of implementation.

- (23) Rules on *ex ante* assessment of entities and persons entrusted with budget implementation tasks under indirect management, should be adapted to ensure that all entrusted entities and persons provide a level of protection of the Union's financial interests equivalent to that required under this Regulation.
- (24) The experience of having PPPs institutionalised as Union bodies under Article 185 of Regulation (EC, Euratom) No 1605/2002 demonstrates that additional categories of PPPs should be provided for in order to increase the choice of instruments and include bodies whose rules are more flexible and accessible for private partners than those applicable to the Union institutions. Those additional categories should cover bodies governed by the private law of a Member State and bodies that are established by a basic act and which have financial rules that respect the principles necessary to ensure sound financial management of Union funds.
- (25) For the purposes of Article 317 TFEU, this Regulation should strengthen Member States' basic control and audit obligations where they implement the budget under shared management, since such obligations currently exist only in sector-specific rules. It is necessary, therefore, to include provisions, setting out a coherent framework for all policy areas concerned, on harmonised administrative structures at national level. That framework should not create any additional control structures but should allow the Member States to designate bodies entrusted with the management and control of Union funds. Furthermore, this Regulation should contain provisions on common management and control obligations for those structures, the annual management declaration by which managers assume the responsibility for the management of Union funds they are entrusted with, examination and acceptance of the accounts, and suspension and correction mechanisms operated by the Commission in order to create a coherent legislative framework which also improves the overall legal certainty and efficiency of controls and remedial action, as well as the protection of the Union's financial interests. Detailed provisions should remain in sector-specific Regulations. Within the context of the single audit approach and with the objective of reducing additional administrative burden stemming from multiple controls, Member States may provide the Commission with declarations, signed at the appropriate national or regional level in accordance with their respective constitutional requirements.
- (26) Some provisions regarding the duties of the authorising officer by delegation should be clarified, in particular those concerning the *ex ante* and *ex post* controls that the authorising officer by delegation puts in place as well as the latter's reporting duties. In this respect, the content of the authorising officer by delegation's annual activity report should be updated in line with practice which consists of including therein the required

financial and management information to support the authorising officer by delegation's declaration of assurance on the performance of his or her duties.

- (27) The responsibilities of the accounting officer of the Commission should be clarified. In particular, it should be specified that the accounting officer of the Commission is the only person who is entitled to define the accounting rules and harmonised charts of accounts, while accounting officers of all other institutions define accounting procedures applicable in their institutions.
- (28) In order to facilitate the implementation of certain programmes or actions entrusted, in particular, to financial institutions, the possibility of opening fiduciary accounts should be provided for in this Regulation. Such bank accounts should be opened in the name, or on behalf, of the Commission in the books of a financial institution. They should be managed by that financial institution under the responsibility of the authorising officer and it should be possible to open them in currencies other than euro.
- (29) Concerning revenue operations, it is necessary to streamline the rules on estimates of amounts receivable in order to take into account budgetary needs. Registration should be required when an expectation of revenue has a certain degree of probability and can be translated into figures with a reasonable degree of approximation. In the interests of simplification, some specific provisions on procedures of adjustment or cancellation of an estimate of amount receivable should be introduced.
- (30) The rules on recovery should be both clarified and strengthened. In particular, it should be specified that the cancellation of an established amount receivable does not imply a waiver of an established Union entitlement. Moreover, in order to reinforce the safeguarding of the Union's financial interests, Union funds claimed for reimbursement should be treated by Member States no less favourably than claims of public bodies on their territory.
- (31) Taking into account the need to reduce the risk associated with the management of amounts received on a temporary basis by way of fines, penalties and sanctions, as well as any income generated by them, those amounts should be recorded as budget revenue as soon as possible and at the latest in the financial year following the exhaustion of all remedies against the decisions imposing them.
- (32) Clarification of the various types of payments should, in accordance with the principle of sound financial management, be provided. Moreover, pre-financing payments should be cleared regularly by the authorising officer responsible in accordance with the accounting rules defined by the accounting officer of the Commission. To this effect, appropriate provisions should be included in contracts, grant decisions, grant agreements as well as in delegation agreements.
- (33) This Regulation should foster the objective of e-Government, and in particular the use of electronic data in the exchange of information between the institutions and third parties.
- (34) The possibility of conducting joint procurement procedures with the European Free Trade Association (EFTA) states or Union candidate countries should be allowed under certain conditions.

- (35) The rules for exclusion from, in particular, participation in procurement procedures should be improved in order to strengthen the protection of the Union's financial interests.
- (36) Given that the use of the ECB and the EIB own resources is of financial interest to the Union, they should be given access to the information contained in the central exclusion database, which was created to protect the Union's financial interests.
- (37) A sound legal basis for the publication of decisions applying administrative and financial penalties, in particular relating to public procurement, should be introduced, in line with data protection requirements. Such publication should remain optional for reasons of data protection and security.
- (38) The requirement for contractors to lodge guarantees should no longer be automatic, but should be based on a risk analysis.
- (39) For reasons of legal certainty, the scope of grants and financial instruments should be clarified. A more detailed definition of the specific conditions applicable to grants, on the one hand, and to financial instruments, on the other, should also contribute to maximising the impact of those two types of financial support.
- (40) The grant rules applicable to entities specifically established for the purpose of an action should be adjusted so as to facilitate access to Union funding and management of grants by applicants and beneficiaries having decided to work together within a partnership or grouping constituted in accordance with relevant national law, in particular where the legal form chosen offers a solid and reliable cooperation environment. In addition, in the light of the limited financial risks for the Union and the need to avoid adding a layer of contractual requirements to existing structural arrangements, entities affiliated to a beneficiary through permanent capital or legal links should be entitled to declare eligible costs without having to comply with all the obligations of a beneficiary.
- (41) Experience gained in the use of lump sums or flat-rate financing has shown that, such forms of financing significantly simplified administrative procedures and reduced the risk of error substantially. In addition, output-based funding has proved appropriate for certain types of actions. In this context, the conditions for using simplified forms of grants determined on the basis of lump sums, unit costs and flat rates should be made more flexible. In particular, amounts determined by the application of a beneficiary-by-beneficiary approach should be allowed, including where such amounts are declared by the beneficiary in accordance with its usual cost accounting practices, in order to alleviate the administrative burden and the costs borne by that beneficiary specifically for the purpose of financial reporting to the Union.
- (42) In order to remove the barriers to participation in Union grant programmes by persons having the necessary expertise but who are not paid in the form of a salary, as may be the case for those working in small structures, grant rules should take account of the specific remuneration schemes applied by small and medium-sized enterprises ('SMEs'), as defined in Commission Recommendation 2003/361/EC of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises⁽⁵⁾.

- (43) The principles of no-profit and co-financing should be adjusted in the light of practical experience and of the diverging interpretations and application of such principles, which results in errors and occasionally in counterproductive effects. In particular, the definition of profit should focus on eligible costs and the receipts specifically financing those costs, in order to simplify reporting by beneficiaries and to encourage them to diversify their sources of funding. Moreover, the Commission should not presume that other donors will not recover any surplus generated by their own contributions, and should, therefore, only recover profit in proportion to its grant. Finally, the degressivity principle has not proved to be an effective tool in limiting the risk of dependence of beneficiaries of operating grants on Union funds. In addition, the applicability of the principle of degressivity has been considerably reduced following the necessary introduction of exceptions in a number of basic acts and in the case of simplified forms of grants. In view of these drawbacks, the degressivity requirement applicable to operating grants should be removed.
- (44) Access to Union funding for entities with limited administrative resources, which can represent a priority target population for certain grant schemes and be indispensable to achieving Union policy objectives, should be facilitated by further simplifying procedures applicable to low value grants.
- (45) In order to ensure legal certainty and establish a single set of basic financial rules which beneficiaries can refer to throughout Union programmes, this Regulation should lay down the cost eligibility criteria and specific conditions governing certain categories of costs and should provide for their consistent application.
- (46) The conditions for accepting contributions in kind from third parties as co-financing and for determining the value of those contributions should be harmonised so as to reduce the risks of error and litigation.
- (47) For the sake of transparency and in order to take account of the planning constraints specific to them, grant applicants should be informed in the call for proposals of the expected time it will take for grant agreements to be signed or grant decisions to be notified to them. For the same purpose, this Regulation should lay down a reference time, based on experience and on the anticipated effects of the simplification measures introduced.
- (48) Where systemic or recurrent errors, having a material impact on a number of grants, are detected, extension of audit findings to the non-audited grants that are impacted should be authorised under strict conditions, so as to alleviate the financial and administrative burden created by on-the-spot controls and audits. The Commission should only resort to extrapolation of the reduction or recovery rate applied to grants for which systemic or recurrent errors have been demonstrated, where it is not possible or practicable with proportionate effort to quantify precisely the amount of ineligible costs for each grant concerned.
- (49) This Regulation should establish standard periods for which documents relating to Union grants should be kept by beneficiaries so as to avoid divergent or disproportionate contractual requirements while still providing for sufficient time for the Commission

and the Court of Auditors to obtain access to such data and documents and perform the *ex post* checks and audits necessary to protect the Union's financial interests.

- (50) The possibility for a beneficiary to award financial support to third parties should be extended under certain conditions in order to facilitate the correct implementation of programmes targeting, *inter alia*, numerous natural persons who can only be reached through cascading grants. Nevertheless, the principle according to which a beneficiary may not exercise discretion when awarding financial support to third parties should be maintained, in particular to avoid any confusion between the possibility offered to beneficiaries to design and implement, under their responsibility, actions which involve financial support as an eligible activity and the possibility to entrust budget implementation tasks under shared or indirect management to certain bodies, entities or persons.
- (51) As a valuable type of financial support, the use of prizes should be facilitated and the applicable rules clarified by separating prizes from the grant regime and removing any reference to predictable costs. Nevertheless, prizes are not well-suited to all Union policy objectives and should, therefore, be seen as complementing, not substituting, other funding instruments such as grants.
- (52) Financial instruments can be valuable in multiplying the effect of Union funds when those funds are pooled with other funds and include a leverage effect. Since such financial instruments cannot be assimilated to services or grants, a new type of financial support should be established. Financial instruments should only be implemented under strict conditions, so that there are no budgetary risks for the budget and no risk of market distortion which is inconsistent with state aid rules.
- (53) Within the framework of the annual appropriations authorised by the European Parliament and the Council for a given programme, financial instruments should be used on a complementary basis, on the basis of an *ex ante* evaluation demonstrating that they are more effective for the achievement of the Union's policy objectives than other forms of Union funding, including grants.
- (54) Financial instruments should be authorised by means of a basic act, defining in particular their objectives and duration. Where financial instruments are established without a basic act in duly justified cases, they should be authorised by the European Parliament and the Council in the budget.
- (55) The instruments that potentially fall under Title VIII of Part One, such as loans, guarantees, equity investments, quasi-equity investment and risk-sharing instruments should be defined. The definition of risk-sharing instruments should allow for the inclusion of credit enhancements for project bonds, covering the debt service risk of a project and mitigating the credit risk of bond holders through credit enhancements in the form of a loan or a guarantee.
- (56) Annual repayments, including capital repayments, guarantees released and repayments of the principal of loans should constitute internal assigned revenue. Revenue including dividends, capital gains, guarantee fees and interest on loans and on amounts on fiduciary accounts should be entered in the budget after deduction of management costs

and fees. This Regulation should lay down the principles and conditions for financial instruments and rules on the limitation of the financial liability of the Union, the fight against fraud and money laundering, the winding down of financial instruments and reporting.

- (57) The presentation of accounts should be simplified by providing that the Union's accounts comprise only the consolidated financial statements and the aggregated budgetary accounts. It should also be clarified that the consolidation process only concerns the institutions, bodies which are set up under the TFEU and the Euratom Treaty and which have legal personality and receive contributions charged to the budget, and other bodies whose accounts are required to be consolidated in accordance with the accounting rules adopted by the accounting officer.
- (58) As required by the internationally accepted accounting standards on which Union accounting rules are based, pension liability, together with other employee benefits liabilities, should be recorded in the Union accounts, separately disclosed on the face of the Union balance sheet and explained further in the notes to the financial statements.
- (59) In order to clearly separate the duties and responsibilities of the Commission's accounting officer from those of the accounting officers of institutions or bodies which are set up under the TFEU and the Euratom Treaty and which have legal personality and receive contributions charged to the budget, and other bodies whose accounts are required to be consolidated in accordance with the accounting rules adopted by the accounting officer, the report on budgetary and financial management of the financial year should be prepared by each institution or body and then sent to the European Parliament, the Council and the Court of Auditors by 31 March of the following financial year.
- (60) It is necessary to update the Union rules and principles on accounting in order to ensure their consistency with the rules of the International Public Sector Accounting Standard Board.
- (61) The Court of Auditors should ensure that any of its findings that could have an impact on the final accounts of auditees or the legality or regularity of their underlying transactions, are transmitted to the institution or body concerned in good time in order to allow such auditees sufficient time to address those findings.
- (62) The provisions concerning provisional and final accounts should be updated, in particular, in order to specify the reporting information that should accompany the accounts sent to the Commission's accounting officer for the purpose of consolidation.
- (63) As regards the information which is to be submitted by the Commission in the context of discharge, the Commission should, in particular, submit to the European Parliament and to the Council an evaluation report on the Union's finances, in accordance with Article 318 TFEU.
- (64) As regards the specific provisions of this Regulation concerning the structural funds, cohesion funds, the European Fisheries Fund, the European Agricultural Fund for Rural Development and funds in the area of Freedom, Security and Justice managed in shared management, the provision for repayment of pre-financing payments, and making

appropriations available again, contained in the Commission declaration annexed to Council Regulation (EC) No 1260/1999 of 21 June 1999 laying down general provisions on the Structural Funds⁽⁶⁾ should be retained. Moreover, by way of derogation from the carry-over rule, the Commission should be allowed to carry over commitment appropriations available at the end of the financial year, arising from repayments of pre-financing payments, until the closure of the programme, and to use those commitment appropriations when other commitment appropriations are no longer available.

- (65) The participation of the Joint Research Centre (JRC) in procurement and grant procedures should be clarified. Moreover, in order to carry out the related activities effectively, revenue stemming from participation in such procedures should exceptionally be considered external assigned revenue.
- (66) The specific provisions relating to the implementation of external actions should be adapted to the changes in the methods of implementation and a differentiated approach should be provided for when the Union is required to respond to humanitarian emergencies, international crises or the needs of third countries undergoing a process of democratic transition.
- (67) This Regulation should establish general conditions under which budget support may be used as an instrument in external action. Such conditions should relate to ensuring a sufficiently transparent, reliable and effective management of public finances. Furthermore, the Commission should decide in a financing decision on the objectives and expected results to which the payment of budget support should be linked. Such elements, as well as the conditions under which budget support is to be reimbursed, should be contained in the financing agreement concluded with the beneficiary country.
- (68) In order to strengthen the international role of the Union in external actions and development and to increase its visibility and efficiency, the Commission should be authorised to create and manage Union trust funds for emergency, post-emergency or thematic actions. Although not integrated in the budget, those trust funds should be managed in accordance with this Regulation to the extent necessary for the security and transparency of the use of Union funds. For that purpose, the Commission should chair the governing board established for each trust fund to ensure the representation of donors and to decide upon the use of the funds. Moreover, the accounting officer of each trust fund should be the accounting officer of the Commission.
- (69) The period for the conclusion of contracts and grant agreements by entities entrusted, under indirect management, with implementing external actions should be limited to three years following the signature of the delegation agreement, unless specific exceptional and external circumstances exist. However, that deadline should not apply to multiannual programmes implemented under the structural funds procedures. Detailed rules for decommitment of appropriations in the case of such multiannual programmes should be laid down in sector-specific rules.
- (70) With regard to specific rules on procurement applicable to external actions, third country nationals established in beneficiary countries should be allowed to participate in tendering procedures, also in the case of implementation of a programme without a basic act and where there are duly justified exceptional circumstances.

- (71) The manner in which the institutions currently report on building projects to the European Parliament and the Council should be improved. Institutions should inform the European Parliament and the Council in advance of their future building projects and at the different stages of those projects. The approval rather than just the opinion of the European Parliament and the Council should be required for building projects which have a significant impact on the budget.
- (72) Institutions should be allowed to develop a long-term real estate policy and profit from lower interest rates resulting from the favourable credit rating of the Union on the financial market. To this end, they should be authorised to raise loans to acquire real estate assets. This would allow the possibility of addressing the complexity of the current system, while saving costs and introducing more transparency.
- (73) In the light of experience, this Regulation should clarify the scope of activities, the selection procedure and the payment conditions of natural persons selected as experts.
- (74) In order to supplement and amend certain aspects of this Regulation the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission. The content and scope of each delegation is set out in detail in the relevant Articles. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work for delegated acts, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure the simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and the Council.
- (75) This Regulation should be revised only when necessary, and at the latest two years before the end of the first post-2013 multiannual financial framework. Excessively frequent revisions generate a disproportionate cost in adjusting administrative structures and procedures to the new rules. Furthermore, time may be too short to allow for valid conclusions to be drawn from the application of the rules in force.
- (76) Transitional provisions should be set out. This Regulation should only apply following the adoption of the delegated acts, containing the rules of application, which are expected to enter into force in December 2012. In order to avoid the application of this Regulation in the last month of the year, it is appropriate to defer its application to 1 January 2013. Moreover, in order to ensure coherence with the sector-specific rules, it is appropriate to defer application of the provisions on the methods of implementation and financial instruments to 1 January 2014. Finally, in order to allow for their application already to the 2012 budget, it is appropriate that the provisions on the transfer of payment appropriations for Structural Funds for the end of the year apply from the date of entry into force of this Regulation.
- (77) This Regulation should enter into force on the day following that of its publication in the *Official Journal of the European Union* in order to allow for the timely adoption of the delegated acts under this Regulation. The timely entry into force of this Regulation is necessary for the application of the rules set out in the delegated acts from 1 January 2013, in order to avoid the difficulties linked to a modification of financial rules during the financial year.

- (78) The European Data Protection Supervisor was consulted in accordance with Article 28(2) of Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data⁽⁷⁾ and delivered an opinion on 15 April 2011⁽⁸⁾,

HAVE ADOPTED THIS REGULATION:

Status: This is the original version (as it was originally adopted).

- (1) OJ C 145, 3.6.2010, p. 1
- (2) Position of the European Parliament of 23 October 2012 (not yet published in the Official Journal) and decision of the Council of 25 October 2012.
- (3) OJ L 248, 16.9.2002, p. 1.
- (4) OJ L 357, 31.12.2002, p. 1.
- (5) OJ L 124, 20.5.2003, p. 36.
- (6) OJ L 161, 26.6.1999, p. 1.
- (7) OJ L 8, 12.1.2001, p. 1.
- (8) OJ C 215, 21.7.2011, p. 13.